

No. K-43019/5/2024-SEZ
Government of India
Ministry of Commerce and Industry
Department of Commerce
(SEZ Section)

Vanijya Bhawan, New Delhi
Dated the 29th February, 2024

OFFICE MEMORANDUM

Subject: 119th Meeting of the Board of Approval (BoA) for Special Economic Zones (SEZs) scheduled to be held on 6th March, 2024 - regarding.

The undersigned is directed to refer to this Department's O.M. of even numbers dated 13th February, 2024 and 26th February, 2024 on the subject cited above and to forward herewith Supplementary Agenda for the 119th meeting of the BoA for SEZs scheduled to be held on 6th March, 2024 at 3.00 P.M. in Room No. 427, Vanijya Bhawan, New Delhi under the Chairmanship of Commerce Secretary in hybrid mode. The Supplementary Agenda has also been hosted on the website: www.sezindia.gov.in.


(Sumit Kumar Sachan)

Under Secretary to the Government of India

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To

1. Central Board of Excise and Customs, Member (Customs), Department of Revenue, North Block, New Delhi. (Fax: 23092628).
2. Central Board of Direct Taxes, Member (IT), Department of Revenue, North Block, New Delhi. (Telefax: 23092107).
3. Joint Secretary, Ministry of Finance, Department of Financial Services, Banking Division, Jeevan Deep Building, New Delhi (Fax: 23344462/23366797).
4. Shri Sanjiv, Joint Secretary, Department of Promotion of Industry and Internal Trade (DPIIT), Udyog Bhawan, New Delhi.
5. Joint Secretary, Ministry of Shipping, Transport Bhawan, New Delhi.
6. Joint Secretary (E), Ministry of Petroleum and Natural Gas, Shastri Bhawan, New Delhi
7. Joint Secretary, Ministry of Agriculture, Plant Protection, Krishi Bhawan, New Delhi.
8. Ministry of Science and Technology, Sc 'G' & Head (TDT), Technology Bhawan, Mehrauli Road, New Delhi. (Telefax: 26862512)
9. Joint Secretary, Department of Biotechnology, Ministry of Science and Technology, 7th Floor, Block 2, CGO Complex, Lodhi Road, New Delhi - 110 003.
10. Additional Secretary and Development Commissioner (Micro, Small and Medium Enterprises Scale Industry), Room No. 701, Nirman Bhawan, New Delhi (Fax: 23062315).

11. Secretary, Department of Electronics & Information Technology, Electronics Niketan, 6, CGO Complex, New Delhi. (Fax: 24363101)
12. Joint Secretary (IS-I), Ministry of Home Affairs, North Block, New Delhi (Fax: 23092569)
13. Joint Secretary (C&W), Ministry of Defence, Fax: 23015444, South Block, New Delhi.
14. Joint Secretary, Ministry of Environment and Forests, Pariyavaran Bhavan, CGO Complex, New Delhi – 110003 (Fax: 24363577)
15. Joint Secretary & Legislative Counsel, Legislative Department, M/o Law & Justice, A-Wing, Shastri Bhavan, New Delhi. (Tel: 23387095).
16. Department of Legal Affairs (Shri Hemant Kumar, Assistant Legal Adviser), M/o Law & Justice, New Delhi.
17. Secretary, Department of Chemicals & Petrochemicals, Shastri Bhawan, New Delhi
18. Joint Secretary, Ministry of Overseas Indian Affairs, Akbar Bhawan, Chanakyapuri, New Delhi. (Fax: 24674140)
19. Chief Planner, Department of Urban Affairs, Town Country Planning Organisation, Vikas Bhavan (E-Block), I.P. Estate, New Delhi. (Fax: 23073678/23379197)
20. Director General, Director General of Foreign Trade, Department of Commerce, UdyogBhavan, New Delhi.
21. Director General, Export Promotion Council for EOUs/SEZs, 8G, 8th Floor, Hansalaya Building, 15, Barakhamba Road, New Delhi – 110 001 (Fax: 223329770)
22. Dr. Rupa Chanda, Professor, Indian Institute of Management, Bangalore, Bennerghata Road, Bangalore, Karnataka
23. Development Commissioner, Noida Special Economic Zone, Noida.
24. Development Commissioner, Kandla Special Economic Zone, Gandhidham.
25. Development Commissioner, Falta Special Economic Zone, Kolkata.
26. Development Commissioner, SEEPZ Special Economic Zone, Mumbai.
27. Development Commissioner, Madras Special Economic Zone, Chennai
28. Development Commissioner, Visakhapatnam Special Economic Zone, Visakhapatnam
29. Development Commissioner, Cochin Special Economic Zone, Cochin.
30. Development Commissioner, Indore Special Economic Zone, Indore.
31. Development Commissioner, Mundra Special Economic Zone, 4th Floor, C Wing, Port Users Building, Mundra (Kutch) Gujarat.
32. Development Commissioner, Dahej Special Economic Zone, Fadia Chambers, Ashram Road, Ahmedabad, Gujarat
33. Development Commissioner, Navi Mumbai Special Economic Zone, SEEPZ Service Center, Central Road, Andheri (East), Mumbai – 400 096
34. Development Commissioner, Sterling Special Economic Zone, Sandesara Estate, AtladraPadra Road, Vadodara - 390012
35. Development Commissioner, Andhra Pradesh Special Economic Zone, Udyog Bhawan, 9th Floor, Siripuram, Visakhapatnam – 3
36. Development Commissioner, Reliance Jamnagar Special Economic Zone, Jamnagar, Gujarat
37. Development Commissioner, Surat Special Economic Zone, Surat, Gujarat
38. Development Commissioner, Mihan Special Economic Zone, Nagpur, Maharashtra
39. Development Commissioner, Sricity Special Economic Zone, Andhra Pradesh.
40. Development Commissioner, Mangalore Special Economic Zone, Mangalore.
41. Development Commissioner, GIFT SEZ, Gujarat
42. Commerce Department, A.P. Secretariat, Hyderabad – 500022. (Fax: 040-23452895).

43. Government of Telangana, Special Chief Secretary, Industries and Commerce Department, Telangana Secretariat Khairatabad, Hyderabad, Telangana.
44. Government of Karnataka, Principal Secretary, Commerce and Industry Department, Vikas Saudha, Bangalore – 560001. (Fax: 080-22259870)
45. Government of Maharashtra, Principal Secretary (Industries), Energy and Labour Department, Mumbai – 400 032.
46. Government of Gujarat, Principal Secretary, Industries and Mines Department Sardar Patel Bhawan, Block No. 5, 3rd Floor, Gandhinagar – 382010 (Fax: 079-23250844).
47. Government of West Bengal, Principal Secretary, (Commerce and Industry), IP Branch (4th Floor), SEZ Section, 4, Abanindranath Tagore Sarani (Camac Street) Kolkata – 700016
48. Government of Tamil Nadu, Principal Secretary (Industries), Fort St. George, Chennai – 600009 (Fax: 044-25370822).
49. Government of Kerala, Principal Secretary (Industries), Government Secretariat, Trivandrum – 695001 (Fax: 0471-2333017).
50. Government of Haryana, Financial Commissioner and Principal Secretary), Department of Industries, Haryana Civil Secretariat, Chandigarh (Fax: 0172-2740526).
51. Government of Rajasthan, Principal Secretary (Industries), Secretariat Campus, Bhagwan Das Road, Jaipur – 302005 (0141-2227788).
52. Government of Uttar Pradesh, Principal Secretary, (Industries), Lal Bahadur Shastri Bhawan, Lucknow – 226001 (Fax: 0522-2238255).
53. Government of Punjab, Principal Secretary Department of Industry & Commerce Udyog Bhawan), Sector -17, Chandigarh- 160017.
54. Government of Puducherry, Secretary, Department of Industries, Chief Secretariat, Puducherry.
55. Government of Odisha, Principal Secretary (Industries), Odisha Secretariat, Bhubaneswar – 751001 (Fax: 0671-536819/2406299).
56. Government of Madhya Pradesh, Chief Secretary, (Commerce and Industry), Vallabh Bhavan, Bhopal (Fax: 0755-2559974)
57. Government of Uttarakhand, Principal Secretary, (Industries), No. 4, Subhash Road, Secretariat, Dehradun, Uttarakhand
58. Government of Jharkhand (Secretary), Department of Industries Nepal House, Doranda, Ranchi – 834002.
59. Union Territory of Daman and Diu and Dadra Nagar Haveli, Secretary (Industries), Department of Industries, Secretariat, Moti Daman – 396220 (Fax: 0260-2230775).
60. Government of Nagaland, Principal Secretary, Department of Industries and Commerce), Kohima, Nagaland.
61. Government of Chattishgarh, Commissioner-cum-Secretary Industries, Directorate of Industries, LIC Building Campus, 2nd Floor, Pandri, Raipur, Chhattisgarh (Fax: 0771-2583651).

Copy to: PPS to CS / PPS to AS (LSS) / PPS to JS (VB) / PPS to Dir (SNS).

Supplementary Agenda for the 119th meeting of the Board of Approval for Special Economic Zones to be held on 06th March, 2024, 3.00 P.M. at Vanijya Bhawan, New Delhi

119.8: Request for extension of validity of formal approval of Developer (1 proposal)

Rule position: In terms of Rule 6(2) of the SEZ Rules, 2006, the letter of approval of a Developer shall be valid for a period of three years within which time at least one unit has commenced production and the SEZ become operational from date of commencement of such production. The Board may on an application by the developer for reasons to be recorded in writing extend the validity period.

119.8(i) Request of M/s. Embassy Property Developments Private Limited, Bangalore for extension of validity of Formal Approval, granted for setting up of Sector specific SEZ for Information Technology and Information Technology Enabled Services (IT/ITES) at Outer Ring Road, Rachenahalli Village, Bangalore, Karnataka State, beyond 01.03.2024.

Name of the Developer : M/s. Embassy Property Developments Private Limited
Sector : IT/ITES
Location : Sy. No. 35/2 P, 35/3A P, 37/1 P, 39/1 P, 39/2 BP, 40/3, 40/6 P at Outer Ring Road, Rachenahalli Village, Bangalore, Karnataka State.
Extension : The Developer was issued Formal approval on 02.03.2017 and granted extension of validity of the same (2 extensions) upto 01.03.2024. The present request is for further extension of validity of LoA upto 01.03.2025 (3rd extension). The SEZ stands notified on 03.05.2017.

Present Progress:

a. **Details of business Plan:-**

Sl. No.	Type of cost	Proposed Investment (Rs. in crore)
1	Land Cost	48.00
2	Construction Cost	480 .00
	Total	528 .00

b. **Incremental investment since last extension:-**

Sl. No.	Type of Cost	Total Investment made so far i.e., up to 31.01.2024 (Rs. in crore)	Investment made upto 31.12.2022 (Rs. in crore)	Incremental investment (Rs. in crore) since last extension i.e. from 01.02.2023 to 31.01.2024
1	Land cost	48 .00	48 .00	--
2	Material Procurement & Construction	425 .00	315 .00	110 .00
	Total	473 .00	363 .00	110 .00

c. **Details of physical progress till date**

Sl. No.	Authorized activity	% Completion	% completion during last one year	Deadline for completion of balance work
1	<p>Project Development [Completed the Civil construction of Block B Building having 22 Floors (3 Basements for Car parking and 19 Floors for office space) admeasuring 10 lakh sq.ft. The fit out/interior work of the building has commenced and is expected to be complete by June 2024. Civil work of Block A Building consisting of 3 Basements and G+18 Floors, admeasuring an area of 5 lakh sq.ft. has been completed. Glass fixation and Glazing work is in progress and is expected to be completed by October 2024.</p>	90%	20%	31.10.2024

Status of construction of the IT buildings:

- The Developer is constructing 2 buildings viz., Block A & B. Block B Building, which consists of 3 Basements for Car parking and G+19 Floors for office space, admeasuring 10 lakh sq.ft., has been completed. The fit out/interior work of the building has been commenced and it is expected to be completed by June 2024.
- Civil work of Block A Building consisting of 3 Basements and G+18 Floors, admeasuring an area of 5 lakh sq.ft. has been completed. Glass fixation and Glazing work is in progress and the work is expected to be completed by October 2024.
- The Developer has invested Rs. 425 crore as on date for the construction.

Reason for delay in implementation of the project

- Due to the decline in demand for SEZ space, the Developer took longer time than anticipated to finalize the SEZ client/unit.
- Approval was given for transfer of M/s Kyndryl Solutions Private Limited holding LoA No.KA:10:06:MEBP:4C dated 25.08.2021, one of the units in Manyata Embassy Business Park SEZ, Bangalore, to Embassy Property Developments Private Limited SEZ and the unit will be operationalized from the Zone immediately. In this regard, the Developer has allotted 2.50 lakh sq.ft. built-up area to the unit and the interior work is in progress.

Recommendation by DC, CSEZ:-

Considering the investment made by the Developer and their undertaking to operationalize the SEZ by June 2024, the request of M/s. Embassy Property Developments Private Limited, the Developer, for extension of validity of Letter of Approval for a further

period of one year (3rd extension) from 02.03.2024 to 01.03.2025 is recommended and forwarded for consideration of BoA, in terms of Rule 6(2) (a) of SEZ Rules 2006.

119.9: Request for conversion of processing area into non-processing area under Rule 11(B) (6 proposals)

119.9(i) Request of M/s. Qubix Business Park Pvt. Ltd. for approval of Demarcation of Built up Floors as Non-Processing Area (NPA) of notified IT/ITES SEZ.

Sr. No.	Particulars	Details																																	
1	Name and Address of the SEZ	M/s. Qubix Business Park Pvt. Lt. at Plot No. 2, Rajiv Gandhi Infotech Park, Phase-I, Hinjewadi, Pune-411057																																	
2	Letter of Formal Approval No. and Date	F.2/274/2006-SEZ dated 23.08.2006																																	
3	Date of Notification	05.10.20211																																	
4	Name of the Sector of SEZ for which approval has been given	IT/ITES																																	
5	Total area of SEZ i. Processing area ii. Non-Processing area	10.1766 hectares 2,03,525.229 (Sq.mtr) Break up <table border="1" style="width: 100%;"> <tr> <td>Nine Buildings</td> <td>2,03,525.229 (Sq.mtr) (20.3525 hectares)</td> </tr> <tr> <td>Security cabin</td> <td>22.694 Sq. mtrs (0.022 hectares)</td> </tr> <tr> <td>Fire station</td> <td>266.282 sq.mtr (0.026 heactares)</td> </tr> </table> NIL	Nine Buildings	2,03,525.229 (Sq.mtr) (20.3525 hectares)	Security cabin	22.694 Sq. mtrs (0.022 hectares)	Fire station	266.282 sq.mtr (0.026 heactares)																											
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6	Details of Built Up area: i. No of towers with built-up area of each tower (in sq. mtr.)- Total No. of Towers	<table border="1" style="width: 100%;"> <thead> <tr> <th>Sr. No.</th> <th>Block No./Tower Name</th> <th>Area in sq.mtr.</th> </tr> </thead> <tbody> <tr><td>1</td><td>IT-1</td><td>21764.96</td></tr> <tr><td>2</td><td>IT-2</td><td>8531.430</td></tr> <tr><td>3</td><td>IT-3</td><td>21762.341</td></tr> <tr><td>4</td><td>IT-4</td><td>15284.205</td></tr> <tr><td>5</td><td>IT-5</td><td>15284.205</td></tr> <tr><td>6</td><td>IT-6</td><td>18141.091</td></tr> <tr><td>7</td><td>IT-7-8-9</td><td>102267.026</td></tr> <tr><td>8</td><td>Security Cabin</td><td>223.694</td></tr> <tr><td>9</td><td>Fire Station</td><td>266.282</td></tr> <tr> <td colspan="2" style="text-align: center;">Total</td> <td>203525.229</td> </tr> </tbody> </table>	Sr. No.	Block No./Tower Name	Area in sq.mtr.	1	IT-1	21764.96	2	IT-2	8531.430	3	IT-3	21762.341	4	IT-4	15284.205	5	IT-5	15284.205	6	IT-6	18141.091	7	IT-7-8-9	102267.026	8	Security Cabin	223.694	9	Fire Station	266.282	Total		203525.229
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7	Total Built up area in	i. Processing area:2,03,525.229 sq.mtrs ii. Non-Processing area- NIL																																	
8	Total Numbers of floors in Building wherein demarcation of NPA is proposed	Stilt Floor + 4 Floors																																	
9	Total built up area proposed for demarcation of NPA for setting up of Non-SEZ IT/ITES units (in	1684.040 Sq.mtrs.																																	

	sq.mtr.)	
10	Total built up area proposed for demarcation of NPA for setting up of Non-SEZ IT/ITES units	Only 3 rd Floor of Building 2 (IT-2)
11	Total duty benefits and tax exemption availed on the built-up area proposed to be demarcated as NPA, as per Chartered Engineers Certificate (in Rs. Crores)	The Developer is in the process of working out duty/ tax benefit calculation w.r.t. area proposed for demarcation and shall obtain CR certificate for refund of duty/ tax benefits as applicable.
12	Whether duty benefits and tax exemptions availed has been refunded and NOC from Specified Officer has been obtained (Please enclose NPC from Specified Officer)	NOC from the Specified Officer pending in receipt.
13	Reasons for demarcation of NPA	The significant Built-up area is lying vacant since long, due to multiple factors including sunset date for income tax, Covid-19 pandemic and WFH facility available to the units. The Developer is not able to get SEZ client. Hence, they have decided to demarcate vacant buildings as NPA so that they can lease the same to DTA.
14	Total remaining built up area	2,01,841.189 Sq. mtrs.
15	Whether total remaining built up area fulfils the minimum built up area requirement as per Rule 5 of SEZ Rules, 2006	Yes
16	Purpose and usage of such demarcation of NPA	To demarcate vacant buildings as NPA so that they can lease the same to DTA.

Furthermore, Joint Development Commissioner along with the Specified officer visited the SEZ on 16.02.2024 for on-site inspection. During the inspection, it is observed that proposed area for demarcation for NPA is fully vacant. The Developer stated that they will ensure adequate control of the movement of persons and goods in SEZ units operating in the processing area and non-processing area.

Repayment of Tax benefits:

The Developer has submitted that, they are in process of working out duty/ tax benefit calculation w.r.t. area proposed for demarcation and shall obtain CE certificate at the earliest for refund of duty/ tax benefits as applicable and thereafter the developer will obtain no dues certificate from the specified officer and furnish the same.

Access Control Mechanism:

The Developer has submitted that, they will ensure adequate control of the movement of persons and goods in SEZ units operating in the processing area and

non-processing area. Further, the developer has submitted that, they will adhere to all SEZ conditions/regulations that may be prescribed in this regard.

Recommendation by DC, SEEPZ SEZ: -

The request of M/s. Qubix Business Park Pvt Ltd. for approval of Demarcation of Built up Floors as Non-Processing Area (NPA) of notified IT/ITES SEZ is recommended to the Board for its consideration.

119.9(ii) Request of M/s. NSL SEZ (Hyderabad) Pvt. Ltd, Developer, IT/ITES SEZ at IDA Uppal, Ranga Reddy District, Telangana for demarcation of their SEZ under Rule 11 B of SEZ (Fifth Amendment) Rules, 2023.

M/s. NSL SEZ (Hyderabad) Pvt. Ltd. was issued Formal Approval No. F.2/336/2006-SEZ dated 31.10.2006 for setting an IT/ITES SEZ at Uppal Industrial Development Area, Hyderabad in an area of 11.735 Hectares. The SEZ stands notified over an area of 5.97 Ha and become operational in 2011.

The Developer vide letter dated 09.1.2024 has stated that most of the floors in Block-2 are still remaining vacant since long due to multiple factors including sunset date for Income tax benefits of IT clients, Covid-19 pandemic and non-expansion of existing units view WFH facility available to them. Thus, despite their efforts they have not been able to get further SEZ clients for their vacant space. Their management has therefore decided to demarcate some vacant floors of the building viz., **10th to 13th Floors in Block-2 as Non-Processing Area** for the purpose of IT/ITES units, so that they can lease the same to DTA units thereby increasing the potential client base.

In this regard, the Developer has submitted the following details: -

S. No.	Particulars	Details		
1	Name of the Developer	M/s. NSL SEZ Hyderabad Pvt. Ltd.		
2	Address of SEZ	Plot No. 6, Sy.No. 1, IDA, Uppal, Hyderabad		
3	Sector	IT/ITES		
4	Formal Approval	F.2/336/2006-SEZ Dated: 31.10.2006		
5	Notification	S.O.782(E) Dated: 18.05.2007		
6	Total Notified land Area (in Hectares)	5.97		
7	Date of operationalization of SEZ	2011		
8	Area earmarked for processing area	5.97 Ha		
9	Total Built-up area in Processing Area	Block- 1		
		Block	No. of FLOORS	Total built-up area (in Sqmt)
		Block-1	UPPER BASEMENT	14684.00
		Block-1	LOWER BASEMENT	13486.40
		Block-1	STILT	4964.30

Block-1	FIRST FLOOR	5142.50
Block-1	SECOND FLOOR	5142.50
Block-1	THIRD FLOOR	5142.50
Block-1	FOURTH FLOOR	5142.50
Block-1	FIFTH FLOOR	5142.50
Block-1	SIXTH FLOOR	5100.00
Block-1	SEVENTH FLOOR	5100.00
Block-1	EIGHTH FLOOR	5100.00
Block-1	NINTH FLOOR	5100.00
Block-1	TENTH FLOOR	5100.00
Block-1	ELEVENTH FLOOR	2615.40
Block-1	Terrace (Staircase room and LMR)	136.70
Block-1	12th FLOOR	2630.10
Block-1	Terrace (Staircase room and LMR)	247.90
TOTAL		89977.30

Block- 2

Block	No. of FLOORS	Total built-up area (in Sqmt)
Block-2	UPPER BASEMENT	1172.25
Block-2	LOWER BASEMENT	1216.62
Block-2	STILT	1337.92
Block-2	1ST FLOOR	4625.97
Block-2	2ND FLOOR	5159.82
Block-2	3RD FLOOR	5159.82
Block-2	4TH FLOOR	5399.08
Block-2	5TH FLOOR	5399.08
Block-2	6TH FLOOR (refuge)	5397.63
Block-2	7TH FLOOR	5132.14
Block-2	8TH FLOOR	5399.08
Block-2	9TH FLOOR	5399.08
Block-2	10TH FLOOR (refuge)	5399.08
Block-2	11TH FLOOR	5253.30
Block-2	12TH FLOOR	5253.30
Block-2	13TH FLOOR	5253.30
Block-2	TERRACE FLOOR	325.69
	TOTAL	72283.16

Total Built-up area (sq. mtr) - **1,62,260.46**

10	Total area proposed to be demarcated as Non-	10,11,12 & 13th floors of Block-2		
		Block	No. of Floors	Total Built-up area (in sq. mt)

	Processing Area (NPA) out of Built-up area (in Square Meter)	Block-2	10th Floor (Refuge)	5399.08
		Block-2	11th Floor	5253.30
		Block-2	12th Floor	5253.30
		Block-2	13th Floor	5253.30
		Total		21,158.98
11	Number of operational units in the SEZ	37		
12	Balance Built-up Processing Area after demarcation	1,41,101.48 Sq.Mtrs.		
13	Whether minimum built-up processing area norms fulfilled after demarcation	Yes		
14	Access control measures for movement of employees & Goods for IT/ITES business to be engaged in the area proposed to be demarcated as Non-Processing Area	<p>Developer undertaken to ensure adequate control on movement of persons as well as goods pertaining to SEZ Units and Non-processing area units as they are demarcating the floors.</p> <p>At the same time, they will place adequate security and gate entry management system to ensure goods pertaining to Non-Processing area units and Processing area units are not mixed with each other including other mechanism like:</p> <ol style="list-style-type: none"> 1. Separate color gate passes or identity cards for both PA and NPA units employees; 2. Separate Car stickers with different colors for both PA and NPA units employees; 3. Round the clock security measures are already in place; 4. Separate security for each floor and block with scanning. 5. Lift will be operated for Processing and Non processing area. 		
15	Repayment of tax benefits in respect of social or commercial infrastructure and other facilities proposed to be used by both the IT or ITES SEZ unit and IT or ITES business engaged in NPA as per Clause 5(ii) of Rule 11B	<p>Developer agreed to pay applicable duties/taxes and is in the process of working out the same. However, they are awaiting for clarification from DoR on the discussion happened during EPCES meeting as forwarded by MoC.</p>		
16	Whether any SEZ unit operating on the area proposed to be demarcated as Non-Processing Area under Rule 11B. If yes, what is the future plan for such SEZ units?	No		

Recommendation by DC, VSEZ:-

The request of M/s. NSL SEZ (Hyderabad) Pvt. Ltd. for demarcation of an area of 21,158.98 sq. mtrs in their SEZ has been recommended by the Development Commissioner, VSEZ to Board of Approvals for its consideration.

119.9(iii) Request of M/s. DLF Info City Hyderabad Ltd., Developer, IT/ITES SEZ at Gachibowli Village, Serilingampally Mandal, Ranga Reddy District, Telangana for demarcation of their SEZ under Rule 11 B of SEZ (Fifth Amendment) Rules, 2023.

M/s. DLF Info City Hyderabad Limited (formerly M/s. DLF Commercial Developers Limited) was issued Formal Approval No.F.2/136/2006-SEZ dated 23.10.2006 for setting up of an IT/ITES SEZ at Plot Nos. 129 to 132, Gachibowli Village, Serilingampally Mandal, Ranga Reddy District, Telangana in an area of 10.617 Ha (Acres). The SEZ stands notified over an area of 10.617 hectares.

The Developer vide letter dated 04.01.2024 has stated that pursuant to the approval of Authorized Operations granted by the BoA, they in collaboration with the Co-Developer viz., M/s. DLF Assets Limited has developed approx 3,73,107 sq. mtrs comprising mainly 3 buildings towers/blocks 1, 2 and 3 in the Processing Area. They have requested to demarcate 5th and 9th Floors in Block-2 and Block-3 in an area of 25,458 sq. mtrs as Non-Processing Area (NPA) for allowing to set up the operation of Non-SEZ IT/ITES units to operate from such demarcated area, in terms of provisions of Rule 11 B of SEZ Rules, 2006. They have also stated that they undertake to repay the tax benefits attributable to the proposed NPA, as required to be paid on the basis of valuation and certification issued by the CE, in accordance to the aforesaid notification. They further undertake that post approval from BoA and conversion of area proposed to NPA, they shall not avail tax exemptions on operations and maintenance of said NPA, including the common area proposed to be used by both, in compliance to the aforesaid rule.

In this regard, the Developer has submitted following details:-

Sl. No.	Particulars	Details
1	Name of the Developer	M/s. DLF Info City Hyderabad Limited
2	Address of SEZ	Sy No.129 to 132, Gachibowli Village, Serilingampalli Mandal, Hyderabad, RangareddyDist, Telangana
3	Sector	IT / ITES
4	Formal Approval	LOA No. F.2/136/2005-EPZ dated 23.10.2006 read with MOC letter F.2/136/2005-SEZ dated 01 Oct, 2018
5	Notification	S.O.669(E). dated 26/04/2007.
6	Total Notified land Area (in Hectares)	10.617 hectares
7	Date of operationalization of SEZ	17 th September, 2007
8	Area earmarked for processing area	100% Processing area

9	Total Built-up area in Processing Area	3,73,107 Sq.mt.			
		Total Built-up area in processing Area (in SqMt), as informed by the developer	Building / Tower / Block / Plot No	No. of Floors	Total Built-up Area (in Sqmt)
		Office	Block-1	G+9 Floors	54846
			Block-2	G+9 Floors	84971
			Block-3	G+9 Floors	84233
		Parking	Block-1, 2 & 3	Podium-1,2,3 & Basement-1&2	149057
Total Built-up Area (Sq.Mtr)				373107	
10	Total area proposed to be demarcated as Non-Processing Area (NPA) out of Built-up area (in Square Meter)	Total area to be demarcated as Non-Processing Area (NPA) out of Built-up area (Sqmt)	Building / Tower / Block / Plot No	No. of Floors	Total Built-up Area (in Sqmt)
		Office	Block-2	5 th Floor	9906
			Block-3	5 th Floor	9138
				9 th Floor	6414
		Total			
11	Number of operational units in the SEZ	41 Units			
12	Balance Built-up Processing Area after demarcation	3,47,649 SqMt			
13	Whether minimum built-up processing area norms fulfilled after demarcation	Yes			
14	Access control measures for movement of employees & Goods for IT/ITES business to be engaged in the area proposed to be demarcated as Non-Processing Area	Separate Access Control at each floor level will be installed after approval. Further we will take all necessary measures as may directed the development commissioner office.			
15	Repayment of tax benefits in respect of social or commercial infrastructure and other facilities proposed to be used by both the IT or ITES SEZ unit and IT or ITES business engaged in NPA as per Clause 5(ii) of Rule 11B	We undertake to repay the tax benefits attributable to the proposed non-processing area, as required to be paid on the basis of valuation and certification issued by the Chartered Engineer, in accordance to the aforesaid notification and the guidance, if any, from your good office			

16	Whether any SEZ unit operating on the area proposed to be demarcated as Non-Processing Area under Rule 11B. If yes, what is the future plan for such SEZ units?	No Unit is operating from the premises proposed demarcated as Non-Processing Area
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Recommendation by DC, VSEZ:-

The request of M/s. DLF Info City Hyderabad Ltd. for demarcation of an area of 25,458 sq.mtrs in their SEZ has been recommended by the Development Commissioner, VSEZ to Board of Approvals for its consideration.

119.9(iv) M/s. Oxygen Business Park Private Limited, developer of IT/ITES SEZ at Plot No. 7, Sector-144, Noida (Uttar Pradesh) – Proposal for demarcation of a portion of built-up area in SEZ as Non-Processing Area under Rule 11B of SEZ Rules, 2006.

M/s. Oxygen Business Park Private Limited, Developer was issued LoA No. F.2/719/2006-SEZ dated 07.02.2008 for setting up of an IT/ITES SEZ over an area of 10.0498 Hectares at Plot No. 7, Sector-144, Noida (Uttar Pradesh). The SEZ stands notified over an area of 10.0498 Hectares and is operational w.e.f. 03.09.2010.

M/s. Oxygen Business Park Private Limited vide its letter dated 12.02.2024 & subsequent letter dated 15.02.2024 has submitted a proposal for demarcation of **88325.50 Square meter built-up area of Tower-1 (including Basement, Stilt floor + 13 floors + Terrace)** to a Non-Processing Area in terms of Rule 11B of SEZ Rules, 2006, out of the **total built-up area of 2,82,217 Square meter**. The Developer has informed that significant built-up area is lying vacant since long, due to multiple factors including sunset date of Income Tax benefit, thereafter Covid-19 pandemic and Work From Home facility available to the units. Therefore, they are not been able to get SEZ clients despite wholehearted efforts and hence their management has decided to demarcate vacant building as Non-Processing Area (NPA) in terms of Rule 11B of SEZ Rules, 2006 for the purpose of IT/ITES Units, so that they can lease the same to Domestic Tariff Area.

In this regard, the Developer has submitted following details:-

Particulars	Details		
Name of Developer	M/s. Oxygen Business Park Private Limited		
Address of SEZ	Plot No. 7, Sector-144, Noida (Uttar Pradesh)		
Sector	IT/ITES		
Formal Approval	No. F.2/719/2006-SEZ dated 07.02.2008		
Total Notified land area (in Hectares)	10.0498 hectare		
Land demarcated as Processing Area	10.0498 hectare		
Total Built-up area in Processing Area (in Square meters)	282217 Square meter (as informed by the Developer)		
Building / Tower / Block wise details of total built-up area of the SEZ.	As provided by the Developer vide letter dated 15.02.2024:-		
	<table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <th style="text-align: left;">Building / Tower / Block</th> <th style="text-align: left;">Total built-up</th> </tr> </table>	Building / Tower / Block	Total built-up
Building / Tower / Block	Total built-up		

No.	area (in Sqmt.)
Tower-A	18764.00
Tower-B	17253.00
Tower-C	17298.00
Tower-D	15314.00
Tower-E	19075.00
Tower-F	16601.00
Tower-1	88325.00
Tower-2	42625.00
Tower-3	44430.00
Food Court	2532.00
	282217.00

Total area to be demarcated as Non-Processing Area (NPA) out of Built-up area (in Square meter)	As provided in the attached map by the developer:-																																								
	<table border="1"> <thead> <tr> <th>Building / Tower / Block No.</th> <th>Floor no. to be demarcated as NPA</th> <th>Total built-up area (inSqmt.)</th> </tr> </thead> <tbody> <tr> <td rowspan="15">Tower-1</td> <td>Basement</td> <td>10061.00</td> </tr> <tr> <td>Stilt floor</td> <td>8818.90</td> </tr> <tr> <td>1st floor</td> <td>4420.80</td> </tr> <tr> <td>2nd floor</td> <td>5096.00</td> </tr> <tr> <td>3rd floor</td> <td>5479.80</td> </tr> <tr> <td>4th floor</td> <td>5479.80</td> </tr> <tr> <td>5th floor</td> <td>5479.80</td> </tr> <tr> <td>6th floor</td> <td>4952.60</td> </tr> <tr> <td>7th floor</td> <td>5479.80</td> </tr> <tr> <td>8th floor</td> <td>5479.80</td> </tr> <tr> <td>9th floor</td> <td>5479.80</td> </tr> <tr> <td>10th floor</td> <td>4952.60</td> </tr> <tr> <td>11th floor</td> <td>5479.80</td> </tr> <tr> <td>12th floor</td> <td>5479.80</td> </tr> <tr> <td>13th floor</td> <td>5479.80</td> </tr> <tr> <td></td> <td>Terrace</td> <td>705.10</td> </tr> <tr> <td></td> <td>Total:</td> <td>88325.50</td> </tr> </tbody> </table>	Building / Tower / Block No.	Floor no. to be demarcated as NPA	Total built-up area (inSqmt.)	Tower-1	Basement	10061.00	Stilt floor	8818.90	1 st floor	4420.80	2 nd floor	5096.00	3 rd floor	5479.80	4 th floor	5479.80	5 th floor	5479.80	6 th floor	4952.60	7 th floor	5479.80	8 th floor	5479.80	9 th floor	5479.80	10 th floor	4952.60	11 th floor	5479.80	12 th floor	5479.80	13 th floor	5479.80		Terrace	705.10		Total:	88325.50
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Balance Built-up Processing Area after demarcation.	193891.50 Square meter.																																								
Whether remaining Built-up Processing Area fulfills requirement of minimum built-up area as per Rule 11B(7) of SEZ Rules, 2006.	Yes. 193891.50 Square meter will remain balance built-up processing area.																																								
Details of social or commercial infrastructure and other facilities proposed to be used by IT/ ITES business engaged in proposed NPA.	Not provided																																								
Whether any SEZ Unit operating on the area proposed to be demarcated as Non-Processing Area under Rule	The Developer has mentioned that they are proposing demarcation of vacant building as NPA under rule 11 B.																																								

11B. If yes, what is the future plan for such SEZ units ?	
Status of refund of applicable tax / duty benefits availed on the area proposed for demarcation as Non-Processing Area.	<p>The Developer has informed that they had filed application for partial de-notification for Tower-1 vide letter dated 02.07.2021, and has already paid back for duty benefits in relation to all the floors under NPA demarcation. 'No Dues Certificate' is also received from the Specified Officer vide letter No. SEZ/Oxygen/Dev.07/2015/05 dated 24.01.2023. The application filed for partial de-notification of Tower-1 has been withdrawn and filed for NPA demarcation.</p> <p>It may be mentioned here that earlier the developer vide its letter dated 02.07.2021 had submitted proposal for part de-notification of 1.47 Hectares land (including Tower-1 Building) from the notified area of 10.0498 Hectares of its IT/ITES SEZ at Plot No. 7, Sector-144, Noida (Uttar Pradesh). The site inspection was carried out by officers of this office on 30.11.2022. The inspection report was sent to Noida Authority for signature of the representative of Noida Authority who was present during site inspection. However, signed inspection report was not received. The Specified Officer vide his letter No. SEZ/Oxygen/Dev.07/2015/05 dated 24.01.2023 had issued 'No Dues' in respect of proposed part de-notification of SEZ stating that the duty exemption amounting to Rs.38,98,88,549/- availed by the developer in development of the said area and construction of the said Tower-1 has been paid. However, 'No Objection' of State Government of proposed part de-notification of SEZ has not yet received.</p> <p>Now, the developer vide its letter dated 09.02.2024 has withdrawn its proposal dated 02.07.2021 for partial deletion of area.</p>
Status of refund of applicable tax / duty benefits availed on the creation of social or commercial infrastructure and other facilities, if proposed to be used by both the IT or ITES SEZ Unit and IT or ITES business engaged in NPA.	Not specifically mentioned.
Access Control Mechanism for movement of employees & good for IT/ITES Business to be engaged in the area proposed to be demarcated as Non-Processing Area.	The developer has mentioned that they will ensure adequate control of the movement of persons and goods in the SEZ units operating in the processing area SEZ Units and non-processing area. Further, the company will adhere to all SEZ conditions /

regulations that may be prescribed in this regard.

Recommendation by DC, NSEZ:-

The request of M/s. Oxygen Business Park Private Limited for demarcation of partial built up area of 88325.50 sq.mt. in respect of Tower 1, (including Basement, Stilt floor + 13 floors + Terrace), as Non-Processing Area, has been recommended by DC, NSEZ for consideration by BOA, in terms of Rule 11B of SEZ Rules, 2006.

119.9(v) Request of M/s. Arliga Ecoworld Infrastructure Pvt. Ltd. (formerly M/s. RMZ Ecoworld Infrastructure Pvt. Ltd.), Developer, for demarcation of SEZ Processing built-up area (38253.26 sq.mtr.) as Non-Processing Area in terms of Rule 11 B of SEZ Rules, 2006.

M/s. Arliga Ecoworld Infrastructure Pvt. Ltd. (formerly M/s. RMZ Ecoworld Infrastructure Pvt. Ltd.) was issued LoA No. F.2/91/2006-EPZ dated 15.06.2006 for setting up of an IT/ITES SEZ at Devarabeesanahalli and Bhoganahalli Villages, Varthur Hobli, Bangalore, Karnataka. The details of the SEZ are as below: -

Area (Hectares)	:	10.415
Date of Notification	:	15.06.2006, 18.03.2011, 19.12.2011, 05.03.2012, 25.07.2018 & 04.07.2023
Date operationalized	:	11.11.2006
No. of Units	:	29
Export (2022-2023) (Rs. in crore)	:	15211.42
Total built-up area (Sq.mtr.)	:	483768.56

The Developer vide letters dated 09.02.2024 & 19.02.2024 has requested for demarcation of 51045.66 sq.mtr. built-up area as non-processing area in terms of Rule 11 B of SEZ Rules, 2006. The Developer states that due to Sunset for Income Tax benefit, Covid-19 pandemic and introduction of work from home facility to the units, they are not able to get SEZ clients and the built-up area in the SEZ is lying vacant since long. Hence, the management decided to demarcate the vacant building as Non-Processing Area. The details of SEZ are as under:-

In this regard, the Developer has submitted the following details:-

Particulars	Details		
Name of Developer	M/s Arliga Ecoworld Infrastructure Pvt. Ltd. (formerly M/s. RMZ Ecoworld Infrastructure Pvt. Ltd.)		
Address of SEZ	Devarabeesanahalli and Bhoganahalli Villages, Varthur Hobli, Bangalore, Karnataka		
Sector	IT/ITES		
Formal Approval	F.2/91/2006-EPZ dated 15 th June 2006		
Total Notified land area (in Hectares)	10.415		
Total Built-up area in Processing Area (in Square meters), as informed by the developer.	Building/ Tower/ Block/Plot No.	No. of floors	Total built-up area (in Sq.mt.)
	1	2 B+G+ 7 floors	69372.86

	2	2 B+G+ 4 floors	21302.03
	3A	2 B+G+ 7 floors	53926.41
	3B	G+ 4 floors	11036.58
	3C	1 B+G	799.00
	4AB	3 B+G+11 floors	111054.90
	4C	3 B+G+ 11 floors	69302.28
	5A	3 B+G+ 9 floors	146974.50
	5B	3B+G+10 floors	
Total Built-up area (sq.mtr.)	483768.56		
Total area to be demarcated as Non-Processing Area (NPA) out of Built-up area (in Square meter)	Building/ Tower/ Block/Plot No.	No. of floors	Total built-up area (in Sq.mt.)
	2	2 B+G+ 4 floors (Entire building)	21302.03
	4C	Basement 3 (Car parking : 4302.65 sq.mtr.) + 9 th to 11 th Floors	16951.23
		Total	38253.26
Balance Built-up Processing Area after demarcation.	445515.30 Sq.mtr.		
Whether minimum built-up processing area norms fulfilled after demarcation?	Yes		
Details of social or commercial infrastructure and other facilities proposed to be used by IT/ ITES business engaged in proposed NPA.	The Developer confirmed that while assessing the tax liability they will be considering all social and common infrastructure facilities built up in the processing and proposed non-processing area to be used by IT/ITES business engaged in proposed NPA and the same will be fully refunded to the department before obtaining No Due Certificate from the Specified Officer.		
Whether any SEZ Unit operating on the area proposed to be demarcated as Non-Processing Area under Rule 11B. If yes, what is the future plan for such SEZ units?	The Developer has confirmed that the built-up area proposed for demarcation as non-processing area is vacant and no SEZ units are operational as on date in the said area.		
Status of refund of applicable tax / duty benefits availed on the area proposed for demarcation as Non-Processing Area.	The Developer has undertaken that they will remit the duty/tax exemptions availed for the area proposed for demarcation as Non-processing area and submit the No Due Certificate immediately.		
Access Control Mechanism for movement of employees & good for IT/ITES Business to be engaged in the area proposed to be demarcated as Non-Processing Area.	The developer has mentioned that they will maintain the appropriate access control mechanisms to ensure adequate screening of movement of persons as well as goods in SEZ premise for the SEZ unit and the businesses engaged in IT/ITES services in the proposed non-processing areas. Other mechanism such as separate colour gate passes or ID cards for		

both PA and NPA unit employees, separate car stickers with different colours for both PA & NPA units employees and separate security for each building & block with proper scanning.

Total Exports & Imports for the last 5 years (Rs. in crore)									
2018-2019		2019-2020		2020-2021		2021-2022		2022-2023	
Export	Import	Export	Import	Export	Import	Export	Import	Export	Import
8130.90	131.00	9032.62	122.89	8830.98	96.24	11089.81	179.63	15211.42	125.89

Recommendation by DC, CSEZ: -

The proposal of M/s. Arliga Ecoworld Infrastructure Pvt. Ltd. (formerly M/s. RMZ Ecoworld Infrastructure Pvt. Ltd.), the Developer for demarcation of **38253.26** sq.mtr. built-up space as Non-Processing Area in terms of Rule 11 B of SEZ Rules.2006, is recommended and forwarded for consideration of BoA.

119.9(vi) Request of M/s. Infoparks Kerala, Co-Developer of Kerala State IT Infrastructure Limited for demarcation of SEZ Processing built-up area (5574 sq.mtr.) as Non-Processing Area in terms of Rule 11 B of SEZ Rules, 2006.

M/s. Kerala State IT Infrastructure Limited was issued LoA No. F.1/105/200-SEZ dated 19.09.2008 for setting up of an IT/ITES SEZ at Pallipuram , Cherthala Taluk, Alapuzha District. The details of the SEZ are as below: -

Area (Hectares)	:	24.53
Date of Notification	:	08.06.2009
Date operationalized	:	15.03.2012
No. of Units	:	23
Export (2022-2023) (Rs. in crore)	:	16.37
Total built-up area (Sq.mtr.)	:	22296

M/s Infoparks Kerala was granted Co-Developer status in the above SEZ vide approval No. F.1/105/2008-SEZ dated 19th February, 2010 for development of IT infrastructure together with relevant amenities and facilities in an area of 3.6423 Ha. The Co-Developer has constructed an IT building admeasuring of 22296 sq.mtr. having four Floors. Now, the Co-Developer vide letter dated 9th February 2024 has requested for demarcation of 5574 sq.mtr. built-up area as non-processing area in terms of Rule 11 B of SEZ Rules.2006. The Co-Developer submits that an area of 19868 sq.mtr. built-up space is lying vacant since March 2012 due to lack of demand of SEZ area, hence decided to demarcate 5574 sq.mtr. built-up space as Non-processing area. M/s. Kerala State IT Infrastructure Limited, Developer vide letter dated 26.02.204 has conveyed their No Objection for demarcation of the said area by the Co-Developer.

In this regard, the Co-Developer has submitted the following details:-

Particulars	Details
Name of Developer	M/s. Kerala State IT Infrastructure Ltd (KSITIL)

Address of SEZ	INFOPARK Cherthala, Pallipuram , Cherthala Taluk, Alapuzha District		
Sector	IT/ITES		
Formal Approval	F.1/105/2008-SEZ dated 19 th September 2008		
Total Notified land area (in Hectares)	24.53		
Total Built-up area in Processing Area (in Square meters), as informed by the developer.	Building/Tower/Block/Plot No.	No. of floors	Total built-up area (in Sq.mt.)
	Chaithanya Building	G+3 Floors	22296.00
Total Built-up area (sq.mtr.)	22296.00		
Total area to be demarcated as Non-Processing Area (NPA) out of Built-up area (in Square meter)	Building/Tower/Block/Plot No.	No. of floors	Total built-up area (in Sq.mt.)
	Chaithanya Building	Ground Floor	5574.00
		Total	5574.00
Balance Built-up Processing Area after demarcation.	16722 sq.mtr.		
Whether minimum built-up processing area norms fulfilled after demarcation?	Yes		
Details of social or commercial infrastructure and other facilities proposed to be used by IT/ ITES business engaged in proposed NPA.	The Co-Developer confirmed that while assessing the tax liability they will be considering all social and common infrastructure facilities built up in the processing and proposed non-processing area to be used by IT/ ITES business engaged in proposed NPA and the same will be fully refunded to the department before obtaining No Due Certificate from the Specified Officer.		
Whether any SEZ Unit operating on the area proposed to be demarcated as Non-Processing Area under Rule 11B. If yes, what is the future plan for such SEZ units?	The Co-Developer has confirmed that the built-up area proposed for demarcation as non-processing area is vacant and no SEZ units are operational as on date in the said area.		
Status of refund of applicable tax / duty benefits availed on the area proposed for demarcation as Non-Processing Area.	The Co-Developer has undertaken that they will remit the duty/tax exemptions availed for the area proposed for demarcation as Non-processing area and submit the No Due Certificate immediately.		

Access Control Mechanism for movement of employees & good for IT/ITES Business to be engaged in the area proposed to be demarcated as Non-Processing Area.

The Co-Developer has mentioned that they will maintain the appropriate access control mechanisms to ensure adequate screening of movement of persons as well as goods in SEZ premise for the SEZ unit and the businesses engaged in IT/ITES services in the proposed non-processing areas.

Total Exports & Imports for the last 5 years (Rs. in crore)									
2018-2019		2019-2020		2020-2021		2021-2022		2022-2023	
Export	Import	Export	Import	Export	Import	Export	Import	Export	Import
43.62	0.26	6.85	0.00	6.15	0.00	6.73	0.00	16.37	0.03

Recommendation by DC, CSEZ: -

The proposal of M/s Infoparks Kerala, the Co-Developer for demarcation of 5574 sq.mtr. built-up space as Non-Processing Area in terms of Rule 11 B of SEZ Rules, 2006, is recommended and forwarded for consideration of BoA.

119.10: Appeal (1 case)

Rule position: - In terms of the rule 55 of the SEZ Rules, 2006, any person aggrieved by an order passed by the Approval Committee under section 15 or against cancellation of Letter of Approval under section 16, may prefer an appeal to the Board in the Form J.

Further, in terms of rule 56, an appeal shall be preferred by the aggrieved person within a period of thirty days from the date of receipt of the order of the Approval Committee under rule 18. Furthermore, if the Board is satisfied that the appellant had sufficient cause for not preferring the appeal within the aforesaid period, it may for reasons to be recorded in writing, admit the appeal after the expiry of the aforesaid period but before the expiry of forty-five days from the date of communication to him of the order of the Approval Committee.

119.10(i) Appeal filed by M/s. Margo Impex Private Limited against the decision of UAC, NSEZ dated 04.01.2024.

Brief facts of the case: M/s. Margo Impex Private Limited was granted LoA dated 10.10.2022 for setting up of a unit in the Arshiya Northern FTWZ Ltd. Free Trade and Warehousing Zone at Village Ibrahimpur, Junaidpur urf Maujpur, Khurja Distt. Bulandshair (U.P.) to undertake 'warehousing Trading (with or without labeling), packing or re-packing (without any processing), Assembly of Completely Knocked Down or Semi Knocked Down kits for the items (as per list of 62 No. HS Codes & item description) except 'Restricted' & 'Prohibited' items. The unit executed Bond-Cum-Legal Undertaking which was accepted by the Competent Authority. The unit had commenced operations w.e.f. 17.12.2022, accordingly the LoA of the unit is valid upto 16.12.2027. The list of items under the LoA dated 10.10.2022 includes HS Code 0801 & 0802.

The Unit Approval Committee, Noida SEZ in its meeting held on 04th January, 2024, decided that all LoAs of the existing units in FTWZ/SEZs having precious metals and related goods

and other sensitive goods for warehousing/trading activities shall be amended to the following extent:-

- a. Trading/warehousing of all precious metals and related goods falling under Harmonised System (HS) Chapter 71, HS 2616 and HS 9608 shall be removed;
- b. **Goods under ITC HS Codes 080132, 080280, 0904, 9101, 9111, 91149030 shall be removed from LoAs of all such existing trading / warehousing units.**
- c. However, precious metals goods in stock of the unit at FTWZ/SEZ may be allowed to be re-exported by the unit. Goods other than precious metal which are in stock of the unit at FTWZ/SEZ and being excluded herewith may be allowed transaction as per existing policy condition of DGFT and/or any other Government agency.

Further, in case of warehousing units, each unit will exercise due diligence and shall ensure KYC in respect of its clients wherein copies of following documents shall be invariably ensured: -

- a. Copy of Business Agreement.
- b. Copy of Passport/ Valid ID of the promoter/director.
- c. Copy of Undertaking to the effect that the warehousing unit has verified the KYC, antecedents and financial standing of their clients.
- d. **Copy of Bank Statement and financial credentials.**

Consequently, the items under the above HS Code 0801 & 0802 were removed from the LoA of the Unit and they were directed to ensure compliances as stated above. Aggrieved with the decision, the Unit has filed appeal before the BoA in terms of Rule 55 of the SEZ Rules, 2006.

Grounds of Appeal:

- i. That the goods of **Subject HSNs have neither been notified under the applicable Foreign Trade Policy, 2023 as restricted nor prohibited**, hence the Impugned Order unreasonably and unjustifiably cancelled the Appellant's LoA *qua* the goods having the Subject HSNs. Therefore, the Impugned Order is unwarranted and untenable in the eyes of law.
- ii. That the **LoA itself mandated the goods** of Subject HSNs to be imported/brought exclusively for 100% export purposes only, and not for sale in Domestic Tariff Area (hereinafter referred to as "DTA"), and which in turn happened to have enabled the Appellant to take home significant amount of convertible foreign exchange, and as a corollary proved to a major impetus for the Appellant to maintain and secure a positive Net Foreign Exchange as prescribed to be ineluctably ensured by an entrepreneur under the Special Economic Zones Rules, 2006.
- iii. That the terms and conditions of the LoA itself stipulated the instance as to when the cancellation of Appellant's LoA could be made; which explicitly prescribed that if the Appellant failed to comply with the conditions stipulated therein, the said LoA shall be cancelled as per the provisions of the SEZ Act, 2005 and the SEZ Rules made thereunder.
- iv. That **Section 16 (1) of the SEZ Act** contains an exhaustive code to the extent the cancellation of a letter of approval of an entrepreneur is concerned. The said provision clearly lays down that the Approval Committee may, at any time, if it has any reason

- or cause to believe that the entrepreneur has persistently contravened any of the terms and conditions or its obligations subject to which the letter of approval was granted to the entrepreneur, cancel the letter of approval.
- v. That however the authority of cancellation of letter of approval, as prescribed under the provision of Section 16 (1) of the SEZ Act, has been subjected to the inevitable precondition of affording a reasonable opportunity of being heard to the concerned entrepreneur by way of the *proviso* thereto.
 - vi. That given the fact that neither any reasonable opportunity of being heard had been extended or granted to the Appellant as prescribed under *proviso* to Section 16(1) of the SEZ Act nor any contravention of terms and conditions or any obligations, as prescribed under the LoA, has been committed by the Appellant, and hence, the Impugned Order is outrightly *ultra vires* the SEZ Act and the SEZ Rules made thereunder.
 - vii. That the provision contemplates and authorizes the cancellation of LoA by the approval committee only in cases where it has 'reason to believe' or 'cause to believe' that the Appellant has persistently contravened the terms and conditions or any obligations, as prescribed under the LoA, and that too after affording a reasonable opportunity of being heard to the Appellant.
 - viii. That it is not a mere contravention of the terms and conditions or any obligations as prescribed under the LoA by the Appellant would invite the wrath of cancellation of its LoA at the hands of the approval committee, but the 'persistent contravention' thereof would cause the cancellation of LoA be invited by the Appellant.
 - ix. That the Impugned Order fails to disclose any 'reason or cause to believe that the Appellant has made persistent contravention of the terms and conditions or the obligations', if any, as fastened upon it under the LoA.
 - x. That by virtue of terms and conditions of the LoA, the LoA was granted to the Appellant for a period of five years effective from the date of commencement of service activities, and having cancelled the same *qua* the Subject HSNs sans observing the mandatory provisions of the SEZ Act prescribed in that behalf makes the entire Impugned Order *non est* in the eyes of law.
 - xi. That without prejudice to the aforesaid, no substantiating material evidence or information found any mention in the Impugned Order on the basis whereof the approval committee seems to have been actuated to undertake the cancellation of LoA *qua* the Subject HSNs in such a haste and in a manner inclement to the provisions of the SEZ Act and the SEZ Rules made thereunder.
 - xii. That in respect of the **additional compliances** to which the Appellant has been tethered via the Impugned Order for the purpose of undertaking KYC of its customers, the Appellant has been directed to barge into its customer's privacy by asking for its **bank statements and financial credentials**. Additionally, the Appellant has also been directed to verify antecedents and financial standing of their client. In this regard, it is submitted that Unit being a service provider within the FTWZ zone is responsible to undertake its authorised operations in terms of SEZ Act and rules framed thereunder. However, it cannot act as a regulatory agency or fiduciary agency or credit rating agency for the purpose of determining the financial standing of the client. Therefore, it is next to impossible for the Appellant to verify antecedents and financial standing of their client.
 - xiii. That by way of administrative order as the Impugned Order, the Appellant could not have been forced to impinge upon the privacy rights of its domestic and international customers, unless the approval committee has been authorized statutorily under the SEZ Act to impose such a condition upon the entrepreneur under a letter of approval,

- for the reason being that the authority to regulate the fundamental rights exclusively vests with the parliament in the capacity of it being the repository of legal sovereignty.
- xiv. That further the Appellant has been directed by way of the Impugned Order to **monitor the remittances** received against the supply of goods by the Appellant's customers, which outrightly amounts to compelling the Appellant to commit an unlawful act, as firstly the Impugned Order failed to appreciate the difference between the Appellant's foreign customers and the domestic customers.
 - xv. That by having mandated the Appellant to monitor the remittances against the supply of goods, the Appellant is being directed to impinge and encroach upon the regulatory powers of the Reserve Bank of India, and thereby mandating the Appellant to commit an unlawful and unconstitutional act.
 - xvi. That the Impugned Order remained sheer **silence in respect of the goods-in-stock** and the goods that were in transit prior to the communication of the said Order having the Subject HSNs as to whether the Appellant could dispose them in due accordance with the contractual obligations undertaken by it with its customers, as failing to discharge and honor thereof would bring disrepute, damages and losses to the Appellant.
 - xvii. That no opportunity has been extended to the Appellant to scrutinize or examine the document/ information, if any, on the basis whereof the Impugned Order has been passed *ex-parte* against the Appellant by having cancelled its LoA qua the Subject HSNs.
 - xviii. That the Impugned Order is a **non-speaking and arbitrary order** in the manner that it neither discloses any reason nor put forth any material as to why such the Appellant has been visited upon with such a severe penal action of cancellation of its authorized operations qua the Subject HSNs.
 - xix. That by having imposed additional compliances and prohibition to undertake authorized operations in terms of LoA in respect of the Subject HSNs by virtue of the Impugned Order, a classification has been sought to be created by the Approval Committee, without having any such restrictions being put in place in other SEZs across the country by the concerned competent jurisdictional Approval Committees thereof, even though there exists **no intelligible differentia** that would have any reasonable nexus to the object sought to be achieved by having demarcated such a classification, and hence such action falls foul of the negative content-cum-guarantee of equality before law granted and extended under Article 14 of the Indian Constitution.
 - xx. That no such enabling power has been granted or delegated to the Approval Committee under the SEZ Act by virtue whereof the Impugned Order could have been passed against the Appellant, which in turn **contravenes the Appellant's fundamental right** to business in terms of Article 19(1)(a) read with Article 19(6) of the Indian Constitution, accrued to it upon issuance issuance of LoA under the SEZ Act.
 - xxi. That be that as it may the products having Subject HSNs are tradeable as free in terms of ITC (HS) Import Policy, as prescribed in furtherance of Foreign Trade Policy 2023, as formulated in terms of Section 5 of the Foreign Trade (Development & Regulation) Act, 1992, which means that import of such items do **not require any licences/authorization/permission from the DGFT**. In such a backdrop, the cancellation of the Appellant's LoA in respect of the Subject HSNs is illegal, unlawful, unjustified and whimsical.

- xxii. That without prejudice to any of the grounds and submissions made herein, it is hereby submitted that having regard to the fact that the Appellant was **engaged in services only in terms of Rule 18(5)** read with Rule 19(4) of the SEZ Rules, any embargo being put on the supplying of the services *qua* the products having Subject HSNs only, without any incriminating basis or material, amounts to an action being untenable in the eyes of the law.
- xxiii. That should any action(s) is/are intended to be taken in relation to the products having the Subject HSNs, such action ought to be or have been taken against the concerned owner thereof as the Appellant is merely engaged in providing logistics support and warehousing services in respect of such products and nothing more. That said, the Appellant could not and should not be punished for the suspicious illegal acts done, if any, by another person.

PRAYER:

- i. Set aside the decision of the approval committee *via* which the Appellant's LoA has been cancelled *qua* the Subject HSNs;
- ii. Quash the Impugned Order *in toto* and restore the Appellant's LoA, as it originally stood before the passing of pertinent order of the approval committee which was communicated to the Appellant *via* the Impugned Order;
- iii. Allow the Appellant to file any additional document(s)/ground(s)/information or likewise, as and when the need arises, if any, at a subsequent date to the filing of this Appeal; and
- iv. Pass such other or further order(s) as your good self may deem fit and proper in the facts and circumstances of the case, and to secure the ends of justice.

Inputs received from DC, NSEZ: -

The function of FTWZ including documentation filed (and whether this was manual or online), customs procedures, method of valuation, relationship of the unit with the clients, measures to streamline operations and scope of products covered under FTWZs have been of concern and have been deliberated in Department of Commerce. In pursuance of these concerns, NSEZ reviewed various parameters of FTWZ including the product coverage.

The Unit Approval Committee in its meeting held on 04th January 2024, decided that all LoAs of the existing units in FTWZ/SEZs having precious metals and related goods and other sensitive goods for warehousing/trading activities shall be amended to the following extent:-

- a. Trading / warehousing of all precious metals and related goods falling under Harmonised System (HS) Chapter 71, HS 2616 and HS 9608 shall be removed;
- b. **Goods under ITC HS Codes 080132, 080280, 0904, 9101, 9111, 91149030 shall be removed from LOAs of all such existing trading / warehousing units.**
- c. However, precious metals goods in stock of the unit at FTWZ/SEZ may be allowed to be re-exported by the unit. Goods other than precious metal which are in stock of the unit at FTWZ/SEZ and being excluded herewith may be allowed transaction as per existing policy condition of DGFT and/or any other Government agency.

Accordingly, as per the decision of the Approval Committee, the items under HS Code 0801 & 0802 had been removed from the LOA No. 10/19/2022-SEZ/8529 dt. 10.10.2022 of M/s. Margo Impex Pvt. Ltd. vide NSEZ's letter dated 18.01.2024.

In the case of the unit, the premises had been inspected and the unit has warehoused poor quality (from visual inspection) areca nuts in jute bags which are imported from Indonesia and destined to Middle East countries like UAE. There is thus an additional issue of the business margins for these products given the high inland freight costs. It may be mentioned here that a D.O. letter No. dated 08.01.2024 was received from Additional Secretary, Deptt. of Commerce, Govt. of India raising similar concerns.

Relevant provisions under the SEZ law: -

- **Section 16(1) regarding Cancellation of letter of approval to entrepreneur:**

(1) The Approval Committee may, at any time, if it has any reason or cause to believe that the entrepreneur has persistently contravened any of the terms and conditions or its obligations subject to which the letter of approval was granted to the entrepreneur, cancel the letter of approval:

Provided that no such letter of approval shall be cancelled unless the entrepreneur has been afforded a reasonable opportunity of being heard.

- **Rule 18(5) regarding FTWZ Unit:**

(5) The Units in Free Trade and Warehousing Zones or Units in Free Trade and Warehousing Zone set up in other Special Economic Zone, shall be allowed to hold the goods on account of the foreign supplier for dispatches as per the owner's instructions and shall be allowed for trading with or without labelling, packing or re-packing without any processing:

- **Rule 19 regarding Letter of Approval of Unit:**

(2) The Letter of Approval shall specify the items of manufacture along with the corresponding Indian Trade Classification (Harmonised System) of Export and Import Items, 2017 or particulars or service activity, including trading or warehousing, projected annual export and Net Foreign Exchange Earning for the next first five years of operations, limitations, if any on Domestic Tariff Area sale of finished goods, by-projects and re-cts and other terms and conditions, if any, stipulated by the Board or Approval Committee:

Provided that the Approval Committee may also approve proposals for broad-banding, diversification, enhancement of capacity of production, change in the items of manufacture or services activity, if it meets the requirements of rule 18.

The appeal is being placed before the BoA for its consideration.
